

STATE OF MICHIGAN
COURT OF APPEALS

PAUL E. ACKLEY and KAREN ACKLEY,

Plaintiffs/Counter-Defendants-
Appellants,

V

DOUGLAS P. TUTTLE and TAMMY TUTTLE,

Defendants/Counter-Plaintiffs-
Appellees.

UNPUBLISHED

October 30, 2001

No. 227877

Schoolcraft Circuit Court

LC No. 99-002900-CZ

Before: Griffin, P.J., and Markey and Meter, JJ.

PER CURIAM.

Following a bench trial, title to a disputed strip of land was quieted in defendants' favor. We affirm.

First, plaintiffs argue that their acts of occupancy of the disputed land were unequivocal, contrary to the trial court's conclusion. A trial court's factual findings are not set aside unless clearly erroneous. MCR 2.613(C); *Grand Rapids v Green*, 187 Mich App 131, 135-136; 466 NW2d 388 (1991). Factual findings are clearly erroneous when the reviewing court is left with a definite and firm conviction that a mistake has been made, even though evidence has been presented to support the trial court's decision. *Meek v Dep't of Transportation*, 240 Mich App 105, 115; 610 NW2d 250 (2000).

Plaintiffs have failed to properly present this issue on appeal. Contrary to MCR 7.212(C)(7), plaintiffs did not provide page references to the transcript, pleadings, or other documents. In addition, plaintiffs did not provide citation to any authority to support their argument. *Weiss v Hodge (After Remand)*, 223 Mich App 620, 637; 567 NW2d 468 (1997).

Plaintiffs may not present an issue without authority to this Court. *Wilson v Taylor*, 457 Mich 232, 242-243; 577 NW2d 100 (1998). "It is not sufficient for a party 'simply to announce a position or assert an error and then leave it up to this Court to discover and rationalize the basis for his claims, or unravel and elaborate for him his arguments, and then search for authority either to sustain or reject his position.'" *Id.* at 243, quoting *Mitcham v Detroit*, 355 Mich 182, 203; 94 NW2d 388 (1959). Because plaintiffs have not made a policy argument nor provided authority to support their position, they have abandoned this issue on appeal. *Haefele v Meijer*,

Inc, 165 Mich App 485, 494; 418 NW2d 900 (1987), remanded on other grounds 431 Mich 853; 425 NW2d 691 (1988).

Next, plaintiffs argue that they acquired ownership of the property by adverse possession. Quiet title actions are equitable; therefore, the trial court's holdings are reviewed de novo. *Gorte v Dep't of Transportation*, 202 Mich App 161, 165; 507 NW2d 797 (1993). To establish ownership of property by adverse possession, a claimant must show that his possession has been actual, visible, open, notorious, exclusive, hostile, under cover of claim of right, and continuous and uninterrupted for the statutory period of fifteen years. *Burns v Foster*, 348 Mich 8, 14; 81 NW2d 386 (1957); *West Michigan Dock & Market Corp v Lakeland Investments*, 210 Mich App 505, 511; 534 NW2d 212 (1995). The plaintiff has the burden of proof to establish the elements of adverse possession by clear and cogent evidence. *Burns, supra* at 14; *McQueen v Black*, 168 Mich App 641, 645; 425 NW2d 203 (1988).

While plaintiffs have arguably proven several of the necessary elements, they have not shown exclusive possession. Because plaintiffs and defendants both occupied and maintained part of the disputed property, plaintiffs have not shown by clear and cogent evidence that their possession of the disputed land was exclusive. *West Michigan Dock & Market Corp, supra* at 511.

Moreover, plaintiffs were required to prove that their possession of the disputed land was under cover of a claim of right. *Id.* A claim of right requires that a party assert his claim "by openly exercising acts of ownership, with the intention of holding the property as his own to the exclusion of all others." *Connelly v Buckingham*, 136 Mich App 462, 469; 357 NW2d 70 (1984). At trial, both parties testified that they each solely maintained the disputed property. "Mutual use or occupation of property with the owner's permission is insufficient to establish adverse possession." *West Michigan Dock & Market Corp, supra* at 511. Because plaintiffs cannot establish exclusive possession of the disputed property, they do not have possession under cover of a claim of right. And, because plaintiffs cannot meet all the elements of adverse possession, their claim of ownership by adverse possession must fail.

We affirm.

/s/ Richard Allen Griffin

/s/ Jane E. Markey

/s/ Patrick M. Meter